



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 3917-99

11 July 2000

[REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 6 July 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 29 August 1960 at age 17. The record shows that during the period 24 August 1961 to 14 June 1962 you received nonjudicial punishment on two occasions and were convicted by two summary courts-martial. Your offenses were an unauthorized absence of about one day, an absence from your appointed place of duty, assaulting a shore patrolman and two instances of drunkenness. On 16 July 1962 you began a period of unauthorized absence. Seven days later, you were apprehended by civil authorities on a burglary charge. Subsequently, the charge was reduced to petty theft and you were sentenced to 170 days in the county jail.

Based on your conviction by civil authorities, you were processed for an administrative discharge. In connection with this processing, you elected to waive your right to have your case heard by an administrative discharge board. On 20 August 1962 the discharge authority approved the recommendation of your commanding officer that you be discharged for misconduct with an undesirable discharge. You were so discharged on 10 September 1962.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and limited education and your claim that you have been a good citizen for many years. The Board also considered your contention, in effect, that the discharge was too severe for a conviction of petty theft. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given your conviction by civilian authorities and other misconduct. The Board was aware that if you had been convicted of theft under the Uniform Code of Military Justice, you could have received confinement and a punitive discharge. Although you were only convicted of petty theft, you were sentenced to serve 170 days in the county jail, which suggested that the offense may have been more serious than it appears. Additionally, you were an unauthorized absentee beginning on 16 July 1962 and never returned to the Marine Corps. Therefore, the Board concluded that the discharge was proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director